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HAROLD B. WILLEY, C

IN THE

Supreme Court of the United States

OCTOBER TERM, 1954

No. 502.

WATERMAN STEAMSHIP CORPORATION,
Petitioner,

against

THE UNITED STATES,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS.

PETITIONER'S REPLY.

WALTER P. HICKEY,
Counsel for Petitioner,
120 Broadway,
New York 5, N. Y.

L. DE GROVE POTTER,
Of Counsel.

Pandick Press, Inc., 22 Thames St., New York 6, N. Y., U. S. A.

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As the Government points out, this cause resembles No. 501, *Waterman Steamship Corporation* v. *United States,* and to that extent reference is made to Petitioner's Reply in that case for its position regarding the recent decision of the Court of Appeals, Second Circuit, in *Prudential Steamship Corporation* v. *United States* and *States Marine Corporation* v. *United States,* decided February 24, 1955 and printed in Appendix to Government's Brief in No. 501.

This cause however presents additional features and important questions of Federal law not involved in No. 501. These stem from the fact that the vessel was owned by the United States, bareboat chartered to Petitioner and time-chartered back to the United States.

The first of these is the alternative question whether the vessel was a public vessel. As a vessel "owned" by the

United States and carrying an Army cargo to Europe it was a "public vessel" within the definition of *The Western Maid,* 257 U. S. 419. Of that definition this Court stated in *Calmar Steamship Corporation* v. *United States,* 345 U. S. 446: "The United States today would be subject to suit on the facts of *The Western Maid* under the Public Vessels Act." Government counsel miss the point when they state in the Brief in Opposition that this issue was decided in the *Calmar* case, *supra.* In that case the vessel was "privately owned" and chartered to the Government. Here the vessel is "Government owned", bareboat chartered to Petitioner and time-chartered back to the Government.

The next additional question is whether a vessel time-chartered to the United States is operated "for" it within the meaning of the Suits in Admiralty Act. The importance of this question is emphasized by the footnote on page 2 of the Brief in Opposition. In the Petition it was pointed out that if the Suits in Admiralty Act applied to vessels time-chartered to the United States, one effect of the Act would be to work a transfer of substantive liabilities of the private shipowner to the United States, as time-charterer. Government counsel apparently concede not only that this would be the result of the Act in such cases but they say this was the intention. However, this result pertains only if the Act applies to time-chartered vessels and the question is whether it does. It speaks of vessels operated "for" the United States. If this includes time-chartered vessels then the Act applies and transfers many of the owner's liabilities to the charterer and thus destroys or nullifies the nature, purpose and intent of such charters. This is so incongruous as to render it inconceivable that Congress could have had any such intention or purpose.

Conclusion.

The Petition should be granted.

Dated: New York, March 15, 1955.

Walter P. Hickey,
Counsel for Petitioner,
120 Broadway,
New York 5, N. Y.

L. de Grove Potter,
Of Counsel.